



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

August 11, 2011

Memorandum for: Deputy Commissioner, Trials

Re: **Lieutenant David Siev**
Tax Registry No. 905496
83rd Precinct
Disciplinary Case No. 84081/08

The above named member of the service appeared before Assistant Deputy Commissioner Claudia Daniels-DePeyster on November 8, 2010, and was charged with the following:

DISCIPLINARY CASE NO. 84081/08

1. Said Lieutenant David Siev, while assigned to the Community Affairs Bureau, on or about and between August 6, 2007 through June 9, 2007, did knowingly associate with a person or organization reasonably believed to be engaged in, likely to engage in, or to have engage in criminal activities.

P.G. 203-10, Page 1, Paragraph 2 (C)

**PUBLIC CONTACT
PROHIBITED CONDUCT
GENERAL REGULATIONS**

2. Said Lieutenant David Siev, while assigned to the Community Affairs Bureau, on or about June 9, 2007, did wrongfully and without just cause engage in off-duty employment without authority or permission to do so (*As amended*).

P.G. 205-40, Page 1, Paragraph 1

**OFF-DUTY EMPLOYMENT
PERSONNEL MATTERS**

In a Memorandum dated March 9, 2011, Assistant Deputy Commissioner Daniels-DePeyster found the Respondent Guilty of Specification No. 1, and Not Guilty of Specification No. 2. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

With consideration of the totality of circumstances and evidence adduced at trial, in addition to noting Respondent Siev's otherwise good service record with the Department, including a very favorable performance evaluation rating offered by his Commanding Officer, this matter to be remanded to Respondent Siev's Commanding Officer for the issuance of a Schedule "B" Command Discipline, with these Charges/Specifications dismissed for adjudication purposes.


Raymond W. Kelly
Police Commissioner

Cc: Deputy Commissioner, Department Advocate



POLICE DEPARTMENT

March 9, 2011

MEMORANDUM FOR: Police Commissioner

Re: Lieutenant David Siev
Tax Registry No. 905496
83 Precinct
Disciplinary Case No. 84081/08

The above-named member of the Department appeared before me on November 8, 2010, charged with the following:

1. Said Lieutenant David Siev, while assigned to the Community Affairs Bureau, on or about and between August 6, 2007¹ through June 9, 2007, did knowingly associate with a person or organization reasonably believed to be engaged in, likely to engage in, or to have engage in criminals activities.

P.G. 203-10, Page 1, Paragraph 2(C) – PUBLIC CONTACT –
PROHIBITED CONDUCT
GENERAL REGULATIONS

2. Said Lieutenant David Siev, while assigned to the Community Affairs Bureau, on or about June 9, 2007, did wrongfully and without just cause engage in off-duty employment without authority or permission to do so. (*As amended*)

P.G. 205-40, Page 1, Paragraph 1 – OFF-DUTY EMPLOYMENT
PERSONNEL MATTERS

The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office, and Respondent was represented by Philip Karasyk, Esq.

¹ As written in the charge. The date should be August 6, 2006.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty of Specification No. 1 and Not Guilty of Specification No. 2.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeant Leotyne Garner as its sole witness.

Sergeant Leotyne Garner

Garner, a 15-year member of the Department currently assigned to the Internal Affairs Bureau, investigated an allegation of misconduct involving Respondent's association with a felon, a boxer named [REDACTED]. In her investigation, Garner learned that Respondent met [REDACTED] through [REDACTED]'s brother (subsequently identified as Police Officer [REDACTED]). Respondent and [REDACTED] were involved in the Police Athletic League (PAL) together. Respondent was also the coach of the Department boxing team.

When Garner ran [REDACTED]'s name in the Department computer system, she learned that [REDACTED] had prior conviction of felonies, past history of being in Family Court for child payments, and other criminal activity. In an interview, Respondent admitted to Garner that he was aware that [REDACTED] had a criminal record. Respondent informed Garner

that he once ran [REDACTED]'s name in the computer system to find out if [REDACTED] was eligible to become an auxiliary police officer. Respondent learned at that point that [REDACTED] had been arrested four or five times. Respondent, nevertheless, continued ' to have a relationship with [REDACTED] regarding the PAL. "

In addition, Respondent worked in the corner of the ring and coached [REDACTED] during a professional boxing match that was televised on HBO on June 9, 2007. The match had nothing to do with PAL or the Department boxing team. [Department's Exhibit (DX) 1 is a video recording of the boxing match. On the video, Respondent can be seen standing in [REDACTED] corner of the ring, wearing a Department baseball cap.] In an interview, Respondent told Garner that he did not have permission from the Department to work at the fight. He did not receive compensation for the fight. He explained to Garner that "it was all voluntary work, that he did it for his own prestige, for him to get recognition as a coach. "

At one point after Respondent learned of [REDACTED] criminal past, he brought [REDACTED] into a Department facility. At the time, Respondent worked in the Firearms Suppression Division, where he and his team of undercover officers were responsible for purchasing guns off of the street. Respondent explained to Garner that he brought [REDACTED] into the facility where they were working to pick up the morale of the police officers there. Respondent introduced [REDACTED] to several officers, and photographs were taken of [REDACTED] posing with firearms purchased through undercover buys. There were also photographs of [REDACTED] with Respondent's personal weapon.

On cross-examination, Garner testified that [REDACTED] was arrested several times for being delinquent in child support payments, but there was no record of domestic physical abuse

Part of Respondent's work for PAL involved putting children into contact with role models on the street. When he first started working with [REDACTED], it was in the context of introducing [REDACTED] to children at PAL functions. The June 2007 boxing match was the only time that Respondent ever worked as a "corner man" at a match or worked for [REDACTED] in any capacity. Garner interviewed members of the service who worked with Respondent at the Firearms Suppression Division, and none of them indicated that they felt threatened by having [REDACTED] present. The Department facility that Respondent brought [REDACTED] into was the 77 Precinct station house.

On redirect examination, Garner testified that she has worked as an undercover officer in the Narcotics Division. At no point while assigned as an undercover did she ever bring a person who was not a member of the service into the facility where she was working. She explained that she would not bring anybody inside "for the safety of the other undercovers and not to disclose the location where undercovers were." Upon review of [REDACTED]'s criminal history, Garner noted that he has been convicted three times, including once for a felony. [DX B is a copy of [REDACTED]'s criminal record. It shows that he was arrested four times between 1998 and 2006. In 1998, he was convicted of attempted robbery in the second degree (class D felony). In addition, he was convicted of misdemeanors in 2004 and 2007.]

On recross-examination, Garner testified that when she worked as an undercover officer, she worked out of unmarked facilities.

Upon questioning by the Court, Garner testified that her official Department interview of Respondent took place on March 4, 2008. Garner determined that Respondent engaged in unauthorized off-duty employment by working as a coach at [REDACTED]'s June 2007 boxing match. Garner reiterated that Respondent coached [REDACTED] just that one time, and he was not paid for it. Respondent did not need Department authorization for the work he did for PAL. Respondent brought [REDACTED] to the police facility at some point between January and August 2007.

Respondent's Case

Respondent testified in his own behalf.

Respondent

Respondent, a 20-year member of the Department, is currently assigned to the 83 Precinct. He has been the subject of Department charges on one previous occasion. He explained that he forfeited 20 penalty days in 1999 or 2000 for the misuse of force during an arrest. Respondent was also the recipient of a Combat Cross medal for his actions during a 1999 robbery in progress. He explained that he jumped into a gun battle that was taking place between several officers and three perpetrators in a bodega. The situation resulted in one perpetrator being killed, the two other perpetrators being arrested, and a hostage being safely released.

Respondent testified that he got into trouble as a child until he started boxing. He explained, "When I started boxing, I became disciplined. And I not only got in shape physically, but my attitude changed, my marks went up in school, eventually I became a

police officer ” He has been involved with the Department boxing team for his entire career, and he took over as head coach and president in 2000 or 2001 The boxing team has always worked with PAL, which opened up two ‘ cops and kids gyms ’ These are gyms that are free to neighborhood children and police officers

Between 2007 and 2009, Respondent was assigned full-time to PAL [REDACTED], who was interested in joining the Department boxing team, brought [REDACTED] with him to a boxing event that the Respondent had organized This is where Respondent met [REDACTED] for the first time [REDACTED], who was a former “PAL kid,” expressed interest in helping out the organization This offer was attractive to Respondent since [REDACTED] was the undisputed welterweight champion of the world Respondent explained, ‘ [REDACTED] was a tremendous boxer and for him to cooperate with the police force and cooperate with kids is such a huge advantage The prestige of having somebody like that in your corner saying, Hey, the Police Department is okay, my brother is a cop, this is a good thing,’ the prestige is tremendous It is common for celebrity athletes to be involved with PAL because children will listen to celebrities who encourage them to become athletic and get along with the police Respondent has brought other celebrities into PAL, and some of them might have had criminal records

When [REDACTED] told Respondent that he was interested in becoming an auxiliary officer, Respondent ran his record Respondent learned that [REDACTED] had been arrested several times before, including once for a felony Respondent told [REDACTED], “Listen, you have a felony arrest I don’t know the disposition of it, but if you want to be an auxiliary officer you are definitely going to have to talk to the auxiliary coordinator and find out if that is going to hold you up ” When asked why he continued his association with [REDACTED]

after learning about Judah's record, Respondent explained that many people in the boxing world have arrest records, and many children involved in PAL are convicted felons. Respondent continued, "That's what we do in PAL, we reach out to those felons and to those kids on the cusp, and we try to work with them. To have somebody who grew up in Brooklyn and who had a past, and now he is working with cops, what better tool do you have than that? I would love to take more and more celebrities with convictions and say kids it's okay."

█████ invited Respondent to be his fourth corner man at a boxing event at Madison Square Garden in June 2007. Respondent explained that the fourth corner man is a seat of honor. Respondent did it only one time and did not receive any compensation for it.

While most undercover units are located in secreted locations, the Firearms Suppression Division turned out of the 77 Precinct station house. Respondent brought █████ to the station house, where █████ took pictures with virtually everybody there. Respondent explained, "Here is a guy that grew up not far from Brooklyn, he's a world champion, he is patting these guys on the back. That was a great morale boost." Before Respondent introduced █████ to the undercover officers assigned to the Firearms Suppression Division, he specifically asked them if they had any problem with █████ coming into the office. Nobody indicated that it would be a problem, and all of the officers took pictures with █████ voluntarily.

On cross-examination, Respondent testified that he knew of █████ before they actually met in person. They met at some point in 2006. He believed that bringing █████ into the fold of the PAL organization would be beneficial to the children in the

community. Although other PAL celebrities might have had criminal records, Respondent could not know for certain because he never ran their names in the Department computer system. When he ran [REDACTED]'s name at some point in 2006, he learned that [REDACTED] had been arrested for a robbery and a domestic incident. He did not know, though, whether or not [REDACTED] had been convicted of anything.

Respondent viewed his position as fourth corner man as an opportunity to represent and promote the Department. He wore a Department cap during the boxing match. He did not tell anybody in the Department beforehand that he was going to be a corner man or wear a hat with a Department logo on it. Working a championship fight in Madison Square Garden brought Respondent a lot of prestige as a fighter and trainer. It was something that could have helped him open doors with other boxers. The fight had nothing to do with PAL or the Department boxing team. Respondent helped [REDACTED] train for matches on numerous occasions.

Respondent did not ask his supervisor for authorization to bring [REDACTED] into the command. When his captain realized that a convicted felon had been brought into an office where there were undercover officers present, he expressed disapproval and had Respondent administratively transferred. [REDACTED] was never used as a confidential informant or a witness in a gun case.

When asked on redirect examination what the enhanced prestige from the Madison Square Garden boxing match meant to him, Respondent testified, 'It's a great thing because now when we talk about cops and kids and we talk about the PAL, I'm somebody who has been in the world champion's corner, who has been at Madison Square Garden. So the kids when they talk to you, they will listen to you that much

more ” In other words, being Judah’s corner man helped him be more effective in dealing with children in the community

Upon questioning by the Court, Respondent testified that being a fourth corner man is like being a gofer to a gofer (the third corner man)

FINDINGS AND ANALYSIS

Respondent stands charged herein with knowingly associating with a person reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities Respondent is found Guilty

Evidenced adduced at trial established that Respondent associated with [REDACTED], the undisputed welterweight champion [REDACTED] who was a former PAL kid,” was introduced to Respondent by [REDACTED] brother, [REDACTED], who is a police officer also active in PAL, much like Respondent Respondent is also the NYPD boxing team s coach Respondent used [REDACTED]’s celebrity status to influence the children at PAL and to encourage them to become athletic and to get along with the police Respondent testified credibly that many people in the boxing world have criminal records and many children involved in the PAL are convicted felons as well who need a role model like [REDACTED] to listen to The Court agrees with Respondent To influence the lives of inner-city children, he uses role models from the community, particularly celebrities to influence them

What is of concern to the Department, however, is the extent to which Respondent used his relationship with [REDACTED] and the PAL to expand this relationship Respondent testified that he was aware that [REDACTED] had a criminal record. However, in an

effort to boost the morale of his subordinates at the Firearms Suppression Division, Respondent testified that he brought [REDACTED] to the 77 Precinct station house where they worked. The Firearms Suppression Division is where undercover members of the service work and their function is to make undercover purchases of firearms on the streets. Respondent and his subordinates, including undercover officers, took photographs with [REDACTED], posing with firearms purchased through undercover buys. Respondent also posed in photographs with his personal firearm. All of this was done without the approval of the commanding officer of the unit.

In addition, Respondent also agreed to work as a corner man during one of [REDACTED]'s professional boxing matches televised on HBO on June 9, 2007. Respondent is seen in the video recording of the match in [REDACTED]'s corner wearing a Department baseball cap (see DX 1). Again, Respondent failed to get permission from the Department to participate in such an event. Respondent stated that his position as a fourth corner man was one of honor and would promote the Department. Yet he also acknowledged that his position as a corner man for a world championship boxer brought prestige to him as a boxing fighter and trainer on a personal level. But again, Respondent failed to adhere to the Department policy against criminal association and such activity which served no legitimate police business was not approved or condoned by the Department.

Accordingly, Respondent is found Guilty of criminal association.

Respondent is also charged with engaging in off-duty employment without permission or authority. Respondent is found Not Guilty. Evidence adduced at trial established that on one occasion, Respondent worked as a "corner man" for [REDACTED] during a championship bout that aired on HBO. Respondent testified that he did not receive

compensation for his participation. He stated that it was voluntary and that he did it for his own prestige and recognition as a coach. He further testified that he was a corner man one time for [REDACTED] and for no one else. In fact, Respondent testified that he was a "fourth corner man" which he described in essence, as the "gofer for the gofer." The Court finds Respondent's one-time participation to be for the prestige and recognition of the act of being a fourth corner man for his personal benefit, rather than actual employment. Whether Respondent had permission to participate in this activity is a separate issue.

Accordingly, Respondent is found Not Guilty of engaging in off-duty employment.

PENALTY

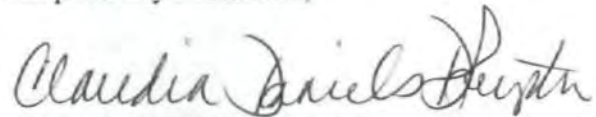
In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v Board of Education, 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 18, 1994, after a lateral transfer from the New York City Transit Police Department. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

Respondent has been found Guilty of criminal association. He brought [REDACTED], a professional boxer with a criminal record, to a Department facility and posed in photographs with him displaying firearms seized in gun buys. He allowed his work with [REDACTED] to benefit PAL kids to cloud his judgment on a personal and professional level as a lieutenant for the Department. In addition, Respondent accepted an offer to be the "fourth corner man" for [REDACTED] in a boxing match aired on HBO. In Disciplinary Case

No. 85687/09, a 13-year sergeant with no prior disciplinary record negotiated a penalty of 20 vacation days for continuing to associate with a friend after learning that the friend had been arrested for harassment. In addition, Respondent in that matter, signed off on a complaint report for the friend.

Based on the above, I recommend that Respondent forfeit 20 vacation days.

Respectfully submitted,



Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK


From Assistant Deputy Commissioner – Trials
To Police Commissioner
Subject CONFIDENTIAL MEMORANDUM
LIEUTENANT DAVID SIEV
TAX REGISTRY NO 905496
DISCIPLINARY CASE NO 84081/08

In 2007, Respondent received an overall rating of 4.0 “Highly Competent” on his annual performance evaluation. In 2009 and 2010, Respondent received an overall rating of 4.5 “Extremely Competent/ Highly Competent” on his annual performance evaluations. Respondent has been awarded one medal for Excellent Police Duty, one medal for Meritorious Police Duty, one Honorable Mention Medal, and one Combat Cross.

[REDACTED]

On October 1, 2001, Respondent received Charges and Specifications for discourtesy and the use of excessive force. Respondent was found Guilty and forfeited 20 vacation days.

For your consideration


Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials